



State of Wisconsin
1999 - 2000 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 SENATE BILL 125**

March 14, 2000 - Offered by COMMITTEE ON JUDICIARY AND CONSUMER AFFAIRS.

1 **AN ACT** *to repeal* 343.30 (1q) (b) 5., 343.305 (10) (b) 5., 343.31 (3) (bm) 5., 346.65
2 (6) (a) 2., 347.413 (2) and 800.03 (4); ***to renumber*** 343.30 (1p); ***to renumber***
3 ***and amend*** 940.09 (1d) and 940.25 (1d); ***to amend*** 20.435 (6) (hx), 110.07 (3),
4 125.07 (4) (bs) 2., 125.07 (4) (bs) 3. and 4., 125.07 (4) (c) 2., 125.07 (4) (c) 3. and
5 4., 125.07 (4) (e) 2. (intro.), 165.83 (2) (e), 343.10 (5) (a) 3., 343.10 (5) (b), 343.23
6 (2) (b), 343.30 (1q) (b) 3., 343.30 (1q) (h), 343.30 (6) (b) (intro.), 343.303, 343.305
7 (3) (a), 343.305 (3) (b), 343.305 (5) (b), 343.305 (8) (c) 1., 343.305 (9) (a) 1.,
8 343.305 (9) (a) 5. a., 343.305 (9) (d), 343.305 (10) (b) 3., 343.305 (10m), 343.31
9 (3) (bm) 3., 346.63 (2m), 346.65 (2) (b), 346.65 (2) (c), 346.65 (2) (d), 346.65 (2)
10 (e), 346.65 (2c), 346.65 (2e), 346.65 (2g) (a), 346.65 (2g) (b), 346.65 (2g) (c),
11 346.65 (2j) (b), 346.65 (2w), 346.65 (6) (a) 1., 346.65 (6) (a) 2m., 346.65 (6) (a) 3.,
12 346.65 (6) (b), 346.65 (6) (c), 346.65 (6) (d), 346.655 (1), 346.655 (2) (a), 346.655
13 (2) (b), 346.95 (2), 347.413 (1), 347.417 (1), 347.417 (2), 349.03 (2m), 349.03 (4),

349.06 (1m), 885.235 (1m), 885.235 (4), 938.344 (2) (b), 938.344 (2) (c), 938.344 (2b) (b) and 938.344 (2b) (c); and ***to create*** 20.395 (5) (ek), 51.30 (4) (b) 25., 85.55, 110.10, 303.065 (2m), 303.08 (1) (cg), 303.08 (1) (cm), 303.08 (10m), 343.30 (1p) (b), 343.301, 343.305 (10) (eg), 343.307 (4), 346.65 (2) (g), 346.65 (2g) (ag), 346.657, 346.93 (2f), 346.93 (2g), 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes; **relating to:** operating a motor vehicle while under the influence of an intoxicant or drugs, or both; immobilization of, installation of an ignition interlock device on or seizure of motor vehicles for offenses related to driving while under the influence of an intoxicant; absolute sobriety for repeat drunken drivers; restrictions on prisoner release from jail or prison; creating a safe-ride grant program; creating an ignition interlock device program; counting drunk driving offenses; pretrial intoxicated driver intervention grants; requiring a report on incarceration alternatives and ignition interlock devices; certain alcohol beverage offenses committed by persons under the legal drinking age; granting rule-making authority; making appropriations; and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.395 (5) (ek) of the statutes is created to read:

20.395 (5) (ek) *Safe-ride grant program; state funds.* From the general fund, all moneys transferred from the appropriation account under s. 20.435 (6) (hx) for the purpose of awarding grants under s. 85.55.

SECTION 2. 20.435 (6) (hx) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

1 20.435 **(6)** (hx) *Services related to drivers, receipts.* The amounts in the
2 schedule for services related to drivers. All moneys received by the state treasurer
3 from the driver improvement surcharge on court fines and forfeitures authorized
4 under s. 346.655 and all moneys transferred from the appropriation account under
5 s. 20.395 (5) (di) shall be credited to this appropriation. The secretary of
6 administration shall annually transfer to the appropriation account under s. 20.395
7 (5) (ek) 3.76% of all moneys credited to this appropriation from the driver
8 improvement surcharge. Any unencumbered moneys in this appropriation account
9 may be transferred to sub. (7) (hy) and ss. 20.255 (1) (hm), 20.285 (1) (ia), 20.395 (5)
10 (ci) and (di) and 20.455 (5) (h) by the secretary of administration after consultation
11 with the secretaries of health and family services and transportation, the
12 superintendent of public instruction, the attorney general and the president of the
13 university of Wisconsin system.

14 **SECTION 3.** 51.30 (4) (b) 25. of the statutes is created to read:

15 51.30 **(4)** (b) 25. To the department of corrections or to a sheriff, to determine
16 if a person incarcerated is complying with the assessment or the driver safety plan
17 ordered under s. 343.30 (1q) (c).

18 **SECTION 4.** 85.55 of the statutes is created to read:

19 **85.55 Safe-ride grant program.** The department may award grants to any
20 county or municipality or to any nonprofit corporation, as defined in s. 46.93 (1m) (c),
21 to cover the costs of transporting persons suspected of having a prohibited alcohol
22 concentration, as defined in s. 340.01 (46m), from any premises licensed under ch.
23 125 to sell alcohol beverages to their places of residence. The amount of a grant under
24 this section may not exceed 50% of the costs necessary to provide the service. The
25 liability of a provider of a safe-ride program to persons transported under the

1 program is limited to the amounts required for an automobile liability policy under
2 s. 344.15 (1). Grants awarded under this section shall be paid from the appropriation
3 under s. 20.395 (5) (ek).

4 **SECTION 5.** 110.07 (3) of the statutes is amended to read:

5 110.07 (3) The secretary may employ inspectors who may not wear the uniform
6 of the state patrol, whose duties shall be to enforce and assist in administering s.
7 346.63 and 346.657, this chapter and chs. 194, 218, 340 to 345 and 347 to 351, s.
8 23.33, the inspection requirements of s. 121.555 (2) (b) and the requirements under
9 s. 346.45 (4) for vehicles being used to transport hazardous materials. Such
10 inspectors, in the performance of these duties, shall have the powers and authority
11 of state traffic officers. For the purpose of death, disability and retirement coverage,
12 such inspectors shall be subject to ch. 40 as is the state traffic patrol. Subject to sub.
13 (5), the secretary may clothe and equip inspectors as the interest of public safety and
14 their duties require.

15 **SECTION 6.** 110.10 of the statutes is created to read:

16 **110.10 Ignition interlock device program.** The department shall
17 promulgate rules providing for the implementation of an ignition interlock device
18 program that will be conveniently available to persons throughout this state. The
19 rules shall include provisions regarding all of following:

20 (1) The selection of persons to install, service and remove ignition interlock
21 devices from motor vehicles.

22 (2) The periodic review of the fees charged to the owner of a vehicle for the
23 installation, service and removal of an ignition interlock device.

24 (3) Requiring ignition interlock device providers operating in this state to
25 establish pilot programs involving the voluntary use of ignition interlock devices.

1 (4) Requiring ignition interlock device providers operating in this state to
2 provide the department and law enforcement agencies designated by the department
3 with installation, service, tampering and failure reports in a timely manner.

4 (5) Requiring ignition interlock device providers to notify the department of
5 any ignition interlock device tampering, circumvention, bypass or violation resets,
6 including all relevant data recorded in the device's memory. Upon receiving notice
7 described in this subsection, the department shall immediately provide the notice
8 and data to the provider that is administering the violator's driver safety plan.

9 **SECTION 7.** 125.07 (4) (bs) 2. of the statutes is amended to read:

10 125.07 (4) (bs) 2. For a violation committed within 12 months of a one previous
11 violation, either a forfeiture of not less than \$300 nor more than \$500, ~~suspension~~
12 ~~of the person's operating privilege as provided under s. 343.30 (6) (b) 2., participation~~
13 ~~in a supervised work program or other community service work under par. (cg) or any~~
14 ~~combination of these penalties. In addition, the person's operating privilege may be~~
15 ~~suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of par.~~
16 ~~(a) involved a motor vehicle the person's operating privilege shall be suspended as~~
17 ~~provided under s. 343.30 (6) (b) 2.~~

18 **SECTION 8.** 125.07 (4) (bs) 3. and 4. of the statutes, as affected by 1997
19 Wisconsin Act 84, are amended to read:

20 125.07 (4) (bs) 3. For a violation committed within 12 months of 2 previous
21 violations, either a forfeiture of not less than \$500 nor more than \$750, ~~suspension~~
22 ~~of the person's operating privilege under s. 343.30 (6) (b) 3., participation in a~~
23 ~~supervised work program or other community service work under par. (cg) or any~~
24 ~~combination of these penalties. In addition, the person's operating privilege may be~~
25 ~~suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par.~~

1 (a) involved a motor vehicle the person's operating privilege shall be suspended as
2 provided under s. 343.30 (6) (b) 3.

3 4. For a violation committed within 12 months of 3 or more previous violations,
4 either a forfeiture of not less than \$750 nor more than \$1,000, ~~suspension of the~~
5 ~~person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation in a supervised
6 work program or other community service work under par. (cg) or any combination
7 of these penalties. In addition, the person's operating privilege may be suspended
8 as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (a) involved
9 a motor vehicle the person's operating privilege shall be suspended as provided
10 under s. 343.30 (6) (b) 3.

11 **SECTION 9.** 125.07 (4) (c) 2. of the statutes is amended to read:

12 125.07 (4) (c) 2. For a violation committed within 12 months of a one previous
13 violation, either a forfeiture of not less than \$200 nor more than \$300, ~~suspension~~
14 ~~of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,~~ participation
15 in a supervised work program or other community service work under par. (cg) or any
16 combination of these penalties. In addition, the person's operating privilege may be
17 suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of par.
18 (b) involved a motor vehicle the person's operating privilege shall be suspended as
19 provided under s. 343.30 (6) (b) 2.

20 **SECTION 10.** 125.07 (4) (c) 3. and 4. of the statutes, as affected by 1997
21 Wisconsin Act 84, are amended to read:

22 125.07 (4) (c) 3. For a violation committed within 12 months of 2 previous
23 violations, either a forfeiture of not less than \$300 nor more than \$500, ~~suspension~~
24 ~~of the person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation in a
25 supervised work program or other community service work under par. (cg) or any

1 combination of these penalties. In addition, the person's operating privilege may be
2 suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par.
3 (b) involved a motor vehicle the person's operating privilege shall be suspended as
4 provided under s. 343.30 (6) (b) 3.

5 4. For a violation committed within 12 months of 3 or more previous violations,
6 either a forfeiture of not less than \$500 nor more than \$1,000, ~~suspension of the~~
7 ~~person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation in a supervised
8 work program or other community service work under par. (cg) or any combination
9 of these penalties. In addition, the person's operating privilege may be suspended
10 as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (b) involved
11 a motor vehicle the person's operating privilege shall be suspended as provided
12 under s. 343.30 (6) (b) 3.

13 **SECTION 11.** 125.07 (4) (e) 2. (intro.) of the statutes is amended to read:

14 125.07 (4) (e) 2. (intro.) After ordering a penalty under par. (bs) or (c), the court,
15 with the agreement of the defendant, may enter an additional order staying the
16 execution of the penalty order and suspending or modifying the penalty imposed,
17 except that the court may not stay, suspend or modify the suspension of a person's
18 operating privilege required under par. (bs) or (c). The order under this subdivision
19 shall require the defendant to do any of the following:

20 **SECTION 12.** 165.83 (2) (e) of the statutes is amended to read:

21 165.83 (2) (e) Obtain and file a copy or detailed description of each arrest
22 warrant issued in this state for the offenses under par. (a) ~~or s. 800.03 (4)~~ but not
23 served because the whereabouts of the person named on the warrant is unknown or
24 because that person has left the state. All available identifying data shall be
25 obtained with the copy of the warrant, including any information indicating that the

1 person named on the warrant may be armed, dangerous or possessed of suicidal
2 tendencies.

3 **SECTION 13.** 303.065 (2m) of the statutes is created to read:

4 303.065 **(2m)** The department may not grant work release privileges to a
5 prisoner who is imprisoned for a violation of s. 346.63 (1), (2), (5) or (6) and who fails
6 to obtain the assessment or to comply with the driver safety plan ordered under s.
7 343.30 (1q) (c) related to the violation for which he or she was imprisoned. This
8 subsection does not apply if the prisoner does not have sufficient funds to make any
9 payments necessary to obtain the assessment or to comply with the driver safety
10 plan.

11 **SECTION 14.** 303.08 (1) (cg) of the statutes is created to read:

12 303.08 **(1)** (cg) Attendance at an assessment ordered by a court under s. 343.30
13 (1q) (c);

14 **SECTION 15.** 303.08 (1) (cm) of the statutes is created to read:

15 303.08 **(1)** (cm) Attendance at a treatment program required by a driver safety
16 plan under s. 343.30 (1q) (c);

17 **SECTION 16.** 303.08 (10m) of the statutes is created to read:

18 303.08 **(10m)** The sheriff may not permit a prisoner who is imprisoned for a
19 violation of s. 346.63 (1), (2), (5) or (6) to leave the jail under sub. (1) if the prisoner
20 fails to obtain the assessment or to comply with the driver safety plan ordered under
21 s. 343.30 (1q) (c). This subsection does not apply if the prisoner does not have
22 sufficient funds to make any payments necessary to obtain the assessment or to
23 comply with the driver safety plan.

24 **SECTION 17.** 343.10 (5) (a) 3. of the statutes is amended to read:

1 343.10 (5) (a) 3. If the applicant has 2 or more prior convictions, suspensions
2 or revocations, as counted under s. 343.307 (1), the occupational license of the
3 applicant shall restrict the applicant's operation under the occupational license to
4 vehicles that are equipped with a functioning ignition interlock device if the court
5 has ordered under s. 346.65 (6) (a) 1., 1997 stats., that a motor vehicle owned by the
6 person be equipped with an ignition interlock device. A person to whom a restriction
7 under this subdivision applies violates that restriction if he or she requests or
8 permits another to blow into an ignition interlock device or to start a motor vehicle
9 equipped with an ignition interlock device for the purpose of providing the person an
10 operable motor vehicle without the necessity of first submitting a sample of his or her
11 breath to analysis by the ignition interlock device. If the occupational license
12 restricts the applicant's operation to a vehicle that is equipped with an ignition
13 interlock device, the applicant shall be liable for the reasonable costs of equipping
14 the vehicle with the ignition interlock device.

15 **SECTION 18.** 343.10 (5) (b) of the statutes is amended to read:

16 343.10 (5) (b) *Limitations.* Occupational licenses are subject to the limitations
17 specified in ss. 343.30 (1q) (b) and (h), 343.305 (8) (d) and (10) (b), (eg) and (em),
18 343.31 (3m), 343.32 (1m), 767.303 and 961.50.

19 **SECTION 19.** 343.23 (2) (b) of the statutes is amended to read:

20 343.23 (2) (b) The information specified in par. (a) must be filed by the
21 department so that the complete operator's record is available for the use of the
22 secretary in determining whether operating privileges of such person shall be
23 suspended, revoked, canceled or withheld in the interest of public safety. The record
24 of suspensions, revocations and convictions that would be counted under s. 343.307
25 (2) shall be maintained for 10 years, ~~except that if there are 2 or more suspensions,~~

1 ~~revocations or convictions within any 10-year period, the record shall be maintained~~
2 permanently. The record of convictions for disqualifying offenses under s. 343.315
3 (2) (h) shall be maintained for at least 10 years. The record of convictions for
4 disqualifying offenses under s. 343.315 (2) (f) shall be maintained for at least 3 years.
5 The record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall
6 be maintained permanently, except that 5 years after a licensee transfers residency
7 to another state such record may be transferred to another state of licensure of the
8 licensee if that state accepts responsibility for maintaining a permanent record of
9 convictions for disqualifying offenses. Such reports and records may be cumulative
10 beyond the period for which a license is granted, but the secretary, in exercising the
11 power of suspension or revocation granted under s. 343.32 (2) may consider only
12 those reports and records entered during the 4-year period immediately preceding
13 the exercise of such power of suspension or revocation.

14 **SECTION 20.** 343.30 (1p) of the statutes is renumbered 343.30 (1p) (a).

15 **SECTION 21.** 343.30 (1p) (b) of the statutes is created to read:

16 343.30 **(1p)** (b) Notwithstanding sub. (1), a court shall suspend the operating
17 privilege of a person for 6 months upon the person's conviction by the court for
18 violation of s. 346.657 or a local ordinance in conformity with s. 346.657. If there was
19 a minor passenger under 16 years of age in the motor vehicle at the time of the
20 violation that gave rise to the conviction under s. 346.657 or a local ordinance in
21 conformity with s. 346.657, the court shall suspend the operating privilege of the
22 person for 12 months.

23 **SECTION 22.** 343.30 (1q) (b) 3. of the statutes is amended to read:

24 343.30 **(1q)** (b) 3. Except as provided in subd. 4m., if the number of convictions,
25 suspensions and revocations ~~within a 10-year period~~ equals 2, the court shall revoke

1 the person's operating privilege for not less than one year nor more than 18 months.
2 After the first 60 days of the revocation period, the person is eligible for an
3 occupational license under s. 343.10 if he or she has completed the assessment and
4 is complying with the driver safety plan ordered under par. (c).

5 **SECTION 23.** 343.30 (1q) (b) 5. of the statutes is repealed.

6 **SECTION 24.** 343.30 (1q) (h) of the statutes is amended to read:

7 343.30 **(1q)** (h) The court or department shall provide that the period of
8 suspension or revocation imposed under this subsection shall be reduced by any
9 period of suspension or revocation previously served under s. 343.305 if the
10 suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63
11 (1) or (2m) or 346.657 or a local ordinance in conformity therewith arise out of the
12 same incident or occurrence. The court or department shall order that the period of
13 suspension or revocation imposed under this subsection run concurrently with any
14 period of time remaining on a suspension or revocation imposed under s. 343.305
15 arising out of the same incident or occurrence. The court may modify an occupational
16 license authorized under s. 343.305 (8) (d) in accordance with this subsection.

17 **SECTION 25.** 343.30 (6) (b) (intro.) of the statutes, as affected by 1997 Wisconsin
18 Act 84, is amended to read:

19 343.30 **(6)** (b) (intro.) If a court imposes suspension of a person's operating
20 privilege under s. 125.07 (4) (bs) or (c), 346.93 (2f) or (2g) or 938.344 (2), (2b) or (2d),
21 the suspension imposed shall be one of the following:

22 **SECTION 26.** 343.301 of the statutes is created to read:

23 **343.301 Installation of ignition interlock device or immobilization of**
24 **a motor vehicle. (1) IGNITION INTERLOCK.** (a) If a person improperly refuses to take
25 a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1) or 940.25, and the

1 person has one or more prior suspensions, revocations or convictions that would be
2 counted under s. 343.307 (1), the court may order that the person's operating
3 privilege for the operation of "Class D" vehicles be restricted to operating "Class D"
4 vehicles that are equipped with an ignition interlock device.

5 (b) The court may restrict the operating privilege restriction under par. (a) for
6 a period of not less than one year nor more than the maximum operating privilege
7 revocation period permitted for the refusal or violation.

8 (c) If the court restricts the person's operating privilege under par. (a), the
9 person shall be liable for the reasonable cost of equipping and maintaining any
10 ignition interlock device installed in his or her motor vehicle.

11 (d) A person to whom a restriction under this subsection applies violates that
12 restriction if he or she requests or permits another to blow into an ignition interlock
13 device or to start a motor vehicle equipped with an ignition interlock device for the
14 purpose of providing the person an operable motor vehicle without the necessity of
15 first submitting a sample of his or her breath to analysis by the ignition interlock
16 device.

17 **(2) IMMOBILIZATION.** (a) If a person improperly refuses to take a test under s.
18 343.305 or violates s. 346.63 (1) or (2), 940.09 (1) or 940.25, and the person has one
19 or more prior suspensions, revocations or convictions that would be counted under
20 s. 343.307 (1), the court may order that the motor vehicle used during the refusal or
21 violation and owned by the person be immobilized.

22 (b) The court may order the immobilization under par. (a) for a period of not less
23 than one year nor more than the maximum operating privilege revocation period
24 permitted for the refusal or violation.

1 (c) If the court orders that the person's motor vehicle be immobilized, the person
2 shall be liable for the reasonable cost of equipping and maintaining any
3 immobilization device installed on his or her motor vehicle.

4 (d) The court shall notify the department, in a form and manner prescribed by
5 the department, that an order to immobilize a motor vehicle has been entered. The
6 registration records of the department shall reflect that the order has been entered
7 against the motor vehicle and remains unexecuted. Any law enforcement officer may
8 execute that order based on the information provided by the department. The law
9 enforcement agency shall notify the department when an order has been executed
10 under this paragraph and the department shall amend its vehicle registration
11 records to reflect that notification.

12 (e) Within 10 days after immobilizing a motor vehicle under par. (d), the law
13 enforcement agency that immobilized the vehicle shall provide notice of the
14 immobilization by certified mail to the owner of the motor vehicle and to all
15 lienholders of record. The notice shall set forth the year, make, model and vehicle
16 identification number of the motor vehicle, where the motor vehicle is located and
17 the reason for the immobilization.

18 **SECTION 27.** 343.303 of the statutes is amended to read:

19 **343.303 Preliminary breath screening test.** If a law enforcement officer
20 has probable cause to believe that the person is violating or has violated s. 346.63 (1)
21 or (2m) or 346.657 or a local ordinance in conformity therewith, or s. 346.63 (2) or (6)
22 or 940.25 or s. 940.09 where the offense involved the use of a vehicle, or if the officer
23 detects any presence of alcohol, a controlled substance, controlled substance analog
24 or other drug, or a combination thereof, on a person driving or operating or on duty
25 time with respect to a commercial motor vehicle or has reason to believe that the

1 person is violating or has violated s. 346.63 (7) or a local ordinance in conformity
2 therewith, the officer, prior to an arrest, may request the person to provide a sample
3 of his or her breath for a preliminary breath screening test using a device approved
4 by the department for this purpose. The result of this preliminary breath screening
5 test may be used by the law enforcement officer for the purpose of deciding whether
6 or not the person shall be arrested for a violation of s. 346.63 (1), (2m), (5) or (7) or
7 346.657 or a local ordinance in conformity therewith, or s. 346.63 (2) or (6), 940.09
8 (1) or 940.25 and whether or not to require or request chemical tests as authorized
9 under s. 343.305 (3). The result of the preliminary breath screening test shall not
10 be admissible in any action or proceeding except to show probable cause for an arrest,
11 if the arrest is challenged, or to prove that a chemical test was properly required or
12 requested of a person under s. 343.305 (3). Following the screening test, additional
13 tests may be required or requested of the driver under s. 343.305 (3). The general
14 penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary
15 breath screening test.

16 **SECTION 28.** 343.305 (3) (a) of the statutes is amended to read:

17 343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 (1), (2m) or (5)
18 or 346.657 or a local ordinance in conformity therewith, or for a violation of s. 346.63
19 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, a law
20 enforcement officer may request the person to provide one or more samples of his or
21 her breath, blood or urine for the purpose specified under sub. (2). Compliance with
22 a request for one type of sample does not bar a subsequent request for a different type
23 of sample.

24 **SECTION 29.** 343.305 (3) (b) of the statutes is amended to read:

1 343.305 (3) (b) A person who is unconscious or otherwise not capable of
2 withdrawing consent is presumed not to have withdrawn consent under this
3 subsection, and if a law enforcement officer has probable cause to believe that the
4 person has violated s. 346.63 (1), (2m) or (5) or 346.657 or a local ordinance in
5 conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense
6 involved the use of a vehicle, or detects any presence of alcohol, controlled substance,
7 controlled substance analog or other drug, or a combination thereof, on a person
8 driving or operating or on duty time with respect to a commercial motor vehicle or
9 has reason to believe the person has violated s. 346.63 (7), one or more samples
10 specified in par. (a) or (am) may be administered to the person.

11 **SECTION 30.** 343.305 (5) (b) of the statutes is amended to read:

12 343.305 (5) (b) Blood may be withdrawn from the person arrested for violation
13 of s. 346.63 (1), (2), (2m), (5) or (6), 346.657 or 940.25, or s. 940.09 where the offense
14 involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1), (2m)
15 or (5) or 346.657, or as provided in sub. (3) (am) or (b) to determine the presence or
16 quantity of alcohol, a controlled substance, a controlled substance analog or any
17 other drug, or any combination of alcohol, controlled substance, controlled substance
18 analog and any other drug in the blood only by a physician, registered nurse, medical
19 technologist, physician assistant or person acting under the direction of a physician.

20 **SECTION 31.** 343.305 (8) (c) 1. of the statutes is amended to read:

21 343.305 (8) (c) 1. An individual aggrieved by the determination of the hearing
22 examiner may have the determination reviewed by the court hearing the action
23 relating to the applicable violation listed under sub. (3) (a) or (am). If the individual
24 seeks judicial review, he or she must file the request for judicial review with the court
25 within 20 days of the issuance of the hearing examiner's decision. The court shall

1 send a copy of that request to the department. The judicial review shall be conducted
2 at the time of the trial of the underlying offense under s. 346.63 or 346.657. The
3 prosecutor of the underlying offense shall represent the interests of the department.

4 **SECTION 32.** 343.305 (9) (a) 1. of the statutes is amended to read:

5 343.305 **(9)** (a) 1. That prior to a request under sub. (3) (a), the officer had placed
6 the person under arrest for a violation of s. 346.63 (1), (2m) or (5) or 346.657 or a local
7 ordinance in conformity therewith or s. 346.63 (2) or (6), 940.09 (1) or 940.25.

8 **SECTION 33.** 343.305 (9) (a) 5. a. of the statutes is amended to read:

9 343.305 **(9)** (a) 5. a. Whether the officer had probable cause to believe the
10 person was driving or operating a motor vehicle while under the influence of alcohol,
11 a controlled substance or a controlled substance analog or any combination of
12 alcohol, a controlled substance and a controlled substance analog, under the
13 influence of any other drug to a degree which renders the person incapable of safely
14 driving, or under the combined influence of alcohol and any other drug to a degree
15 which renders the person incapable of safely driving or having a prohibited alcohol
16 concentration or, if the person was driving or operating a commercial motor vehicle,
17 an alcohol concentration of 0.04 or more and whether the person was lawfully placed
18 under arrest for violation of s. 346.63 (1), (2m) or (5) or 346.657 or a local ordinance
19 in conformity therewith or s. 346.63 (2) or (6), 940.09 (1) or 940.25.

20 **SECTION 34.** 343.305 (9) (d) of the statutes is amended to read:

21 343.305 **(9)** (d) At the close of the hearing, or within 5 days thereafter, the court
22 shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined
23 adversely to the person, the court shall proceed under sub. (10). If one or more of the
24 issues is determined favorably to the person, the court shall order that no action be
25 taken on the operating privilege on account of the person's refusal to take the test in

1 question. This section does not preclude the prosecution of the person for violation
2 of s. 346.63 (1), (2m), (5) or (7) or 346.657 or a local ordinance in conformity therewith,
3 or s. 346.63 (2) or (6), 940.09 (1) or 940.25.

4 **SECTION 35.** 343.305 (10) (b) 3. of the statutes is amended to read:

5 343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions,
6 suspensions and revocations ~~within a 10-year period~~ equals 2, the court shall revoke
7 the person's operating privilege for 2 years. After the first 90 days of the revocation
8 period, the person is eligible for an occupational license under s. 343.10 if he or she
9 has completed the assessment and is complying with the driver safety plan.

10 **SECTION 36.** 343.305 (10) (b) 5. of the statutes is repealed.

11 **SECTION 37.** 343.305 (10) (eg) of the statutes is created to read:

12 343.305 (10) (eg) One penalty for improperly refusing to submit to a test for
13 intoxication regarding a person arrested for a violation of s. 346.657 or a local
14 ordinance in conformity therewith is revocation of the person's operating privilege
15 for 12 months. If there was a minor passenger under 16 years of age in the motor
16 vehicle at the time of the incident that gave rise to the improper refusal, the
17 revocation period is 24 months. After the first 15 days of the revocation period, the
18 person is eligible for an occupational license under s. 343.10. Any such improper
19 refusal or revocation for the refusal does not count as a prior refusal or a prior
20 revocation under this section or s. 343.307. The person shall not be required to
21 submit to and comply with any assessment or driver safety plan under pars. (c) and
22 (d).

23 **SECTION 38.** 343.305 (10m) of the statutes is amended to read:

24 343.305 (10m) REFUSALS; SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK OF A
25 MOTOR VEHICLE. If the person whose operating privilege is revoked under sub. (10)

has ~~2~~ one or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), the procedure under s. ~~346.65 (6)~~ 343.301 shall be followed regarding if the court orders the immobilization or seizure and forfeiture of a motor vehicle owned by the person or the equipping of a the motor vehicle used and owned by the person with an ignition interlock device. If the person whose operating privilege is revoked under sub. (10) has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), the procedure under s. 346.65 (6) shall be followed if the court orders the seizure and forfeiture of the motor vehicle used and owned by the person.

SECTION 39. 343.307 (4) of the statutes is created to read:

343.307 (4) When counting convictions, revocations and suspensions under sub. (1) or (2), all of the following apply:

(a) Every conviction for violating s. 940.09 (1) or 940.25 shall be counted for the lifetime of the person.

(b) If a person has 3 or more of the convictions, suspensions or revocations listed under sub. (1) or (2) within a 10-year period, those convictions, suspensions or revocations and every subsequent conviction, suspension or revocation listed under sub. (1) or (2) shall be counted for the lifetime of the person.

(c) Except as provided in pars. (a) and (b), if a person has none of the convictions, suspensions or revocations listed under sub. (1) or (2) within a 10-year period, no convictions, suspensions or revocations listed under sub. (1) or (2) that occurred before that 10-year period may be counted.

(d) The time periods under this subsection shall be measured from the dates of the refusals or violations that resulted in the convictions, suspensions or revocations.

1 **SECTION 40.** 343.31 (3) (bm) 3. of the statutes is amended to read:

2 343.31 **(3)** (bm) 3. Except as provided in subd. 4m., if the number of
3 suspensions, revocations and convictions ~~within a 10-year period~~ equals 2, the
4 department shall revoke the person's operating privilege for not less than one year
5 nor more than 18 months. If an Indian tribal court in this state revokes the person's
6 privilege to operate a motor vehicle on tribal lands for not less than one year nor more
7 than 18 months for the conviction specified in par. (bm) (intro.), the department shall
8 impose the same period of revocation. After the first 60 days of the revocation period,
9 the person is eligible for an occupational license under s. 343.10.

10 **SECTION 41.** 343.31 (3) (bm) 5. of the statutes is repealed.

11 **SECTION 42.** 346.63 (2m) of the statutes is amended to read:

12 346.63 **(2m)** If a person has not attained the legal drinking age, as defined in
13 s. 125.02 (8m), the person may not drive or operate a motor vehicle while he or she
14 has an alcohol concentration of more than 0.0 but not more than 0.1. One penalty
15 for violation of this subsection is suspension of a person's operating privilege under
16 s. 343.30 (1p) (a). The person is eligible for an occupational license under s. 343.10
17 at any time. If a person arrested for a violation of this subsection refuses to take a
18 test under s. 343.305, the refusal is a separate violation and the person is subject to
19 revocation of the person's operating privilege under s. 343.305 (10) (em).

20 **SECTION 43.** 346.65 (2) (b) of the statutes is amended to read:

21 346.65 **(2)** (b) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less
22 than ~~\$300~~ \$350 nor more than ~~\$1,000~~ \$1,100 and imprisoned for not less than 5 days
23 nor more than 6 months if the total number of suspensions, revocations and
24 convictions counted under s. 343.307 (1) equals 2 ~~within a 10-year period~~.

1 Suspensions, revocations or convictions arising out of the same incident or
2 occurrence shall be counted as one.

3 **SECTION 44.** 346.65 (2) (c) of the statutes is amended to read:

4 346.65 (2) (c) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less
5 than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more
6 than one year in the county jail if the total number of suspensions, revocations and
7 convictions counted under s. 343.307 (1) equals 3, except that suspensions,
8 revocations or convictions arising out of the same incident or occurrence shall be
9 counted as one.

10 **SECTION 45.** 346.65 (2) (d) of the statutes is amended to read:

11 346.65 (2) (d) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less
12 than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor more
13 than one year in the county jail if the total number of suspensions, revocations and
14 convictions counted under s. 343.307 (1) equals 4, except that suspensions,
15 revocations or convictions arising out of the same incident or occurrence shall be
16 counted as one.

17 **SECTION 46.** 346.65 (2) (e) of the statutes is amended to read:

18 346.65 (2) (e) Except as provided in ~~par.~~ pars. (f) and (g), shall be fined not less
19 than \$600 nor more than \$2,000 and imprisoned for not less than 6 months nor more
20 than 5 years if the total number of suspensions, revocations and convictions counted
21 under s. 343.307 (1) equals 5 or more, except that suspensions, revocations or
22 convictions arising out of the same incident or occurrence shall be counted as one.

23 **SECTION 47.** 346.65 (2) (g) of the statutes is created to read:

24 346.65 (2) (g) 1. If a person convicted had an alcohol concentration of 0.17 to
25 0.199, the applicable minimum and maximum fines under pars. (c) to (e) are doubled.

1 2. If a person convicted had an alcohol concentration of 0.20 to 0.249, the
2 applicable minimum and maximum fines under pars. (c) to (e) are tripled.

3 3. If a person convicted had an alcohol concentration of 0.25 or above, the
4 applicable minimum and maximum fines under pars. (c) to (e) are quadrupled.

5 **SECTION 48.** 346.65 (2c) of the statutes is amended to read:

6 346.65 **(2c)** ~~In sub. (2) (b) to (e), the time period shall be measured from the~~
7 ~~dates of the refusals or violations that resulted in the revocation or convictions.~~ If
8 a person has a suspension, revocation or conviction for any offense under a local
9 ordinance or a state statute of another state that would be counted under s. 343.307
10 (1), that suspension, revocation or conviction shall count as a prior suspension,
11 revocation or conviction under sub. (2) (b) to (e), as counted under s. 343.307 (4).

12 **SECTION 49.** 346.65 (2e) of the statutes is amended to read:

13 346.65 **(2e)** If the court determines that a person does not have the ability to
14 pay the costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d), (e) ~~or~~ (f)
15 or (g), the court may reduce the costs, fine and forfeiture imposed and order the
16 person to pay, toward the cost of the assessment and driver safety plan imposed
17 under s. 343.30 (1q) (c), the difference between the amount of the reduced costs and
18 fine or forfeiture and the amount of costs and fine or forfeiture imposed under sub.
19 (2) (a), (b), (c), (d), (e) ~~or~~ (f) or (g).

20 **SECTION 50.** 346.65 (2g) (a) of the statutes is amended to read:

21 346.65 **(2g)** (a) In addition to the authority of the court under s. 973.05 (3) (a)
22 to provide that a defendant perform community service work for a public agency or
23 a nonprofit charitable organization in lieu of part or all of a fine imposed under sub.
24 (2) (b) to (f) (g) and except as provided in par. (ag), the court may provide that a
25 defendant perform community service work for a public agency or a nonprofit

1 charitable organization in lieu of part or all of a forfeiture under sub. (2) (a) or may
2 require a person who is subject to sub. (2) to perform community service work for a
3 public agency or a nonprofit charitable organization in addition to the penalties
4 specified under sub. (2).

5 (am) Notwithstanding s. 973.05 (3) (b), an order under par. (a) or (ag) may only
6 apply if agreed to by the organization or agency. The court shall ensure that the
7 defendant is provided a written statement of the terms of the community service
8 order and that the community service order is monitored. Any organization or
9 agency acting in good faith to which a defendant is assigned pursuant to an order
10 under this subsection has immunity from any civil liability in excess of \$25,000 for
11 acts or omissions by or impacting on the defendant. The issuance or possibility of the
12 issuance of a community service order under this subsection does not entitle an
13 indigent defendant who is subject to sub. (2) (a) to representation by counsel under
14 ch. 977.

15 **SECTION 51.** 346.65 (2g) (ag) of the statutes is created to read:

16 346.65 **(2g)** (ag) If the court determines that a person does not have the ability
17 to pay a fine imposed under sub. (2) (b) to (g), the court shall require the defendant
18 to perform community service work for a public agency or a nonprofit charitable
19 organization in lieu of paying the fine imposed or, if the amount of the fine was
20 reduced under sub. (2e), in lieu of paying the remaining amount of the fine. Each
21 hour of community service performed in compliance with an order under this
22 paragraph shall reduce the amount of the fine owed by an amount determined by the
23 court.

24 **SECTION 52.** 346.65 (2g) (b) of the statutes is amended to read:

1 346.65 (2g) (b) The court may require a person ordered to perform community
2 service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine
3 resulted from violating s. 346.63 (2), 940.09 (1) or 940.25, to participate in community
4 service work that demonstrates the adverse effects of substance abuse or of operating
5 a vehicle while under the influence of an intoxicant or other drug, including working
6 at an alcoholism treatment facility approved under s. 51.45, an emergency room of
7 a general hospital or a driver awareness program under s. 346.637. The court may
8 order the person to pay a reasonable fee, based on the person's ability to pay, to offset
9 the cost of establishing, maintaining and monitoring the community service work
10 ordered under this paragraph. If the opportunities available to perform community
11 service work are fewer in number than the number of defendants eligible under this
12 subsection, the court shall, when making an order under this paragraph, give
13 preference to defendants who were under 21 years of age at the time of the offense.
14 All provisions of par. (a) (am) apply to any community service work ordered under
15 this paragraph.

16 **SECTION 53.** 346.65 (2g) (c) of the statutes is amended to read:

17 346.65 (2g) (c) If there was a minor passenger under 16 years of age in the
18 motor vehicle or commercial motor vehicle at the time of the violation that gave rise
19 to the conviction, the court may require a person ordered to perform community
20 service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine
21 resulted from violating s. 346.63 (2), (5) (a) or (6) (a), 940.09 (1) or 940.25, to
22 participate in community service work that benefits children or that demonstrates
23 the adverse effects on children of substance abuse or of operating a vehicle while
24 under the influence of an intoxicant or other drug. The court may order the person
25 to pay a reasonable fee, based on the person's ability to pay, to offset the cost of

1 establishing, maintaining and monitoring the community service work ordered
2 under this paragraph.

3 **SECTION 54.** 346.65 (2j) (b) of the statutes is amended to read:

4 346.65 **(2j)** (b) Except as provided in par. (d), shall be fined not less than \$300
5 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months
6 if the total of prior convictions, suspension and revocations counted under s. 343.307
7 (2) equals 2 ~~within a 10-year period.~~

8 **SECTION 55.** 346.65 (2w) of the statutes is amended to read:

9 346.65 **(2w)** In determining the number of prior convictions for purposes of sub.
10 (2j), the court shall count suspensions, revocations and convictions that would be
11 counted under s. 343.307 (2). Revocations, suspensions and convictions arising out
12 of the same incident or occurrence shall be counted as one. ~~The time period shall be~~
13 ~~measured from the dates of the refusals or violations which resulted in the~~
14 ~~revocation, suspension or convictions.~~ If a person has a suspension, revocation or
15 conviction for any offense that is counted under s. 343.307 (2), that suspension,
16 revocation or conviction shall count as a prior suspension, revocation or conviction
17 under this section, as counted under s. 343.307 (4).

18 **SECTION 56.** 346.65 (6) (a) 1. of the statutes is amended to read:

19 346.65 **(6)** (a) 1. ~~Except as provided in this paragraph, the~~ The court may order
20 a law enforcement officer to seize a the motor vehicle, ~~or, if the motor vehicle is not~~
21 ~~ordered seized, shall order a law enforcement officer to equip the motor vehicle with~~
22 ~~an ignition interlock device or immobilize any motor vehicle~~ used during the
23 violation and owned by the person whose operating privilege is revoked under s.
24 343.305 (10) or who committed a violation of s. 346.63 (1) (a), or (b) or (2) (a) 1. or 2.,
25 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d) if the person whose operating

1 privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2
2 or more prior suspensions, revocations or convictions that would be counted under
3 s. 343.307 (1). ~~The court shall not order a motor vehicle equipped with an ignition~~
4 ~~interlock device or immobilized if that would result in undue hardship or extreme~~
5 ~~inconvenience or would endanger the health and safety of a person.~~

6 **SECTION 57.** 346.65 (6) (a) 2. of the statutes is repealed.

7 **SECTION 58.** 346.65 (6) (a) 2m. of the statutes is amended to read:

8 346.65 **(6)** (a) 2m. A person who owns a motor vehicle subject to seizure,
9 ~~equipping with an ignition interlock device or immobilization~~ under this paragraph
10 shall surrender to the clerk of circuit court the certificate of title issued under ch. 342
11 for every the motor vehicle ~~owned by the person that is subject to seizure~~. The person
12 shall comply with this subdivision within 5 working days after receiving notification
13 of this requirement from the district attorney. When a district attorney receives a
14 copy of a notice of intent to revoke the operating privilege under s. 343.305 (9) (a) of
15 a person who has 2 or more prior convictions, suspensions or revocations, as counted
16 under s. 343.307 (1), or when a district attorney notifies the department of the filing
17 of a criminal complaint against a person under s. 342.12 (4) (a), the district attorney
18 shall notify the person of the requirement to surrender ~~all certificates~~ the certificate
19 of title to the clerk of circuit court. The notification shall include the time limits for
20 that surrender, the penalty for failure to comply with the requirement and the
21 address of the clerk of circuit court. The clerk of circuit court shall promptly return
22 ~~each~~ the certificate of title surrendered to the clerk of circuit court under this
23 subdivision after stamping the certificate of title with the notation "Per section
24 346.65 (6) of the Wisconsin statutes, ownership of this motor vehicle may not be

1 transferred without prior court approval". Any person failing to surrender a
2 certificate of title as required under this subdivision shall forfeit not more than \$500.

3 **SECTION 59.** 346.65 (6) (a) 3. of the statutes is amended to read:

4 346.65 (6) (a) 3. The court shall notify the department, in a form and manner
5 prescribed by the department, that an order to ~~equip a motor vehicle with an ignition~~
6 ~~interlock device, to immobilize a motor vehicle or to~~ seize a motor vehicle has been
7 entered. The registration records of the department shall reflect that the order has
8 been entered against the vehicle and remains unexecuted. Any law enforcement
9 officer may execute that order and shall transfer any motor vehicle ordered seized
10 to the law enforcement agency that was originally ordered to seize the vehicle based
11 on the information provided by the department. The law enforcement agency shall
12 notify the department when an order has been executed under this subdivision and
13 the department shall amend its vehicle registration records to reflect that
14 notification.

15 **SECTION 60.** 346.65 (6) (b) of the statutes is amended to read:

16 346.65 (6) (b) Within 10 days after seizing ~~or immobilizing~~ a motor vehicle
17 under par. (a), the law enforcement agency that seized ~~or immobilized~~ the vehicle
18 shall provide notice of the seizure ~~or immobilization~~ by certified mail to the owner
19 of the motor vehicle and to all lienholders of record. The notice shall set forth the
20 year, make, model and serial number of the motor vehicle, where the motor vehicle
21 is located, the reason for the seizure ~~or immobilization~~, and the forfeiture procedure
22 if the vehicle was seized. When a motor vehicle is seized under this section, the law
23 enforcement agency that seized the vehicle shall place the motor vehicle in a secure
24 place subject to the order of the court.

25 **SECTION 61.** 346.65 (6) (c) of the statutes is amended to read:

1 346.65 (6) (c) The district attorney of the county where the motor vehicle was
2 seized, or where the owner improperly refused to take the test under s. 343.305 or
3 violated s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25
4 (1) (a), (b), (c) or (d), shall commence an action to forfeit the motor vehicle within 30
5 days after the motor vehicle is seized. The action shall name the owner of the motor
6 vehicle and all lienholders of record as parties. The forfeiture action shall be
7 commenced by filing a summons, complaint and affidavit of the law enforcement
8 agency with the clerk of circuit court. Upon service of an answer, the action shall be
9 set for hearing within 60 days after the service of the answer. If no answer is served
10 or no issue of law or fact joined and the time for that service or joining of issues has
11 expired, the court may render a default judgment as provided in s. 806.02.

12 **SECTION 62.** 346.65 (6) (d) of the statutes is amended to read:

13 346.65 (6) (d) At the hearing set under par. (c), the state has the burden of
14 proving to a reasonable certainty by the greater weight of the credible evidence that
15 the motor vehicle seized under par. (a) 1. is a motor vehicle used in the violation or
16 the improper refusal and owned by a person who committed a violation of s. 346.63
17 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or
18 (d) and, ~~if the seizure is under par. (a) 1.,~~ that the person had 2 or more prior
19 convictions, suspensions or revocations, as counted under s. 343.307 (1) ~~or, if the~~
20 ~~seizure is under par. (a) 2., 3 or more prior convictions, suspensions or revocations,~~
21 ~~as counted under s. 343.307 (1).~~ If the,, (c) or (d),, (c) or (d) state fails to meet the
22 burden of proof required under this paragraph, the motor vehicle shall be returned
23 to the owner upon the payment of storage costs.

24 **SECTION 63.** 346.655 (1) of the statutes is amended to read:

1 346.655 (1) ~~On or after July 1, 1988, if~~ If a court imposes a fine or a forfeiture
2 for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or
3 s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a
4 vehicle, it shall impose a driver improvement surcharge in an amount of ~~\$340~~ \$345
5 in addition to the fine or forfeiture, penalty assessment, jail assessment and crime
6 laboratories and drug law enforcement assessment.

7 **SECTION 64.** 346.655 (2) (a) of the statutes is amended to read:

8 346.655 (2) (a) Except as provided in par. (b), the clerk of court shall collect and
9 transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40
10 (2) (m). The county treasurer shall then make payment of ~~37.6%~~ 38.5% of the amount
11 to the state treasurer as provided in s. 59.25 (3) (f) 2.

12 **SECTION 65.** 346.655 (2) (b) of the statutes is amended to read:

13 346.655 (2) (b) If the forfeiture is imposed by a municipal court, the court shall
14 transmit the amount to the treasurer of the county, city, town or village, and that
15 treasurer shall make payment of ~~37.6%~~ 38.5% of the amount to the state treasurer
16 as provided in s. 66.12 (1) (b). The treasurer of the city, town or village shall transmit
17 the remaining ~~62.4%~~ 61.5% of the amount to the treasurer of the county.

18 **SECTION 66.** 346.657 of the statutes is created to read:

19 **346.657 Absolute sobriety for repeat drunken drivers.** (1) No person
20 who has 3 or more prior suspensions, revocations of convictions that would be
21 counted under s. 343.307 (1) may drive or operate a motor vehicle while he or she has
22 an alcohol concentration of more than 0.0 but less than 0.08. Upon convicting a
23 person of violating this subsection or of a local ordinance in conformity with this
24 section, the court may suspend the person's operating privilege under s. 343.30 (1p)
25 (b) and impose a forfeiture of not more than \$250. If there was a minor passenger

1 under 16 years of age in the motor vehicle at the time of the violation that gave rise
2 to the conviction under this subsection, the forfeiture is doubled. The person is
3 eligible for an occupational license under s. 343.10 at any time. If a person arrested
4 for a violation of this subsection refuses to take a test under s. 343.305, the refusal
5 is a separate violation and the person is subject to revocation of the person's
6 operating privilege under s. 343.305 (10) (eg). The clerk of the court in which the
7 conviction occurred shall forward the record of conviction under this subsection to
8 the department. Upon receiving a record of conviction under this subsection, the
9 department shall immediately provide notice of the conviction to the provider that
10 is administering the violator's driver safety plan.

11 (2) Notwithstanding s. 349.02, a law enforcement officer may not stop or
12 inspect a vehicle solely to determine compliance with this section or a local ordinance
13 in conformity with this section, or rules of the department. This subsection does not
14 limit the authority of a law enforcement officer to issue a citation for a violation of
15 this section or a local ordinance in conformity with this section, or rules of the
16 department, observed in the course of a stop or inspection made for other purposes.

17 (3) An offense under sub. (1) is not an included offense of any offense specified
18 in s. 346.63 (1), (2), (5) or (6), 940.09 (1) or 940.25, but a person may not be convicted
19 both of violating s. 346.657 and of violating s. 346.63 (1), (2), (5) or (6), 940.09 (1) or
20 940.25.

21 **SECTION 67.** 346.93 (2f) of the statutes is created to read:

22 346.93 (2f) Except as provided in sub. (2g), any person violating this section
23 may have his or her operating privilege suspended under s. 343.30 (6) (b) 1.

24 **SECTION 68.** 346.93 (2g) of the statutes is created to read:

1 346.93 **(2g)** Any person violating this section may be required to forfeit not less
2 than \$20 nor more than \$400 and shall have his or her operating privilege:

3 (b) For a violation committed within 12 months of one previous violation,
4 suspended under s. 343.30 (6) (b) 2.

5 (c) For a violation committed within 12 months of 2 or more previous violations,
6 suspended under s. 343.30 (6) (b) 3.

7 **SECTION 69.** 346.95 (2) of the statutes is amended to read:

8 346.95 **(2)** Any person violating s. 346.89 (1), ~~346.93~~ or 346.94 (2), (4) or (7) may
9 be required to forfeit not less than \$20 nor more than \$400.

10 **SECTION 70.** 347.413 (1) of the statutes is amended to read:

11 347.413 **(1)** No person may remove, disconnect, tamper with or otherwise
12 circumvent the operation of an ignition interlock device installed in response to the
13 court order under s. 346.65 (6), 1997 stats., or s. 343.301 (1). This subsection does
14 not apply to the removal of an ignition interlock device upon the expiration of the
15 order requiring the motor vehicle to be so equipped or to necessary repairs to a
16 malfunctioning ignition interlock device by a person authorized by the department.

17 **SECTION 71.** 347.413 (2) of the statutes is repealed.

18 **SECTION 72.** 347.417 (1) of the statutes is amended to read:

19 347.417 **(1)** No person may remove, disconnect, tamper with or otherwise
20 circumvent the operation of any immobilization device installed in response to a
21 court order under s. 346.65 (6), 1997 stats., or s. 343.301 (2). This subsection does
22 not apply to the removal of an immobilization device pursuant to a court order or to
23 necessary repairs to a malfunctioning immobilization device.

24 **SECTION 73.** 347.417 (2) of the statutes is amended to read:

1 347.417 (2) The department shall design a warning label which shall be affixed
2 by the owner of each immobilization device before the device is used to immobilize
3 any motor vehicle under s. ~~346.65 (6)~~ 343.301 (2). The label shall provide notice of
4 the penalties for removing, disconnecting, tampering with or otherwise
5 circumventing the operation of the immobilization device.

6 **SECTION 74.** 349.03 (2m) of the statutes is amended to read:

7 349.03 (2m) Notwithstanding sub. (2), a municipal court may suspend a license
8 for a violation of a local ordinance in conformity with s. 346.63 (1) or (2m) or 346.657.

9 **SECTION 75.** 349.03 (4) of the statutes is amended to read:

10 349.03 (4) If a violation under s. 343.305 or 346.63 or a local ordinance in
11 conformity with s. 346.63 (1), (5) or (7) or 346.657 occurs within a law enforcement
12 officer's jurisdiction, he or she may enforce the violation anywhere in the state.

13 **SECTION 76.** 349.06 (1m) of the statutes is amended to read:

14 349.06 (1m) Notwithstanding sub. (1), a municipal court may suspend a license
15 for a violation of a local ordinance in conformity with s. 346.63 (1) or (2m) or 346.657.

16 **SECTION 77.** 800.03 (4) of the statutes is repealed.

17 **SECTION 78.** 885.235 (1m) of the statutes is amended to read:

18 885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m)
19 or (7), 346.657 or 350.101 (1) (c), evidence of the amount of alcohol in the person's
20 blood at the time in question, as shown by chemical analysis of a sample of the
21 person's blood or urine or evidence of the amount of alcohol in the person's breath,
22 is admissible on the issue of whether he or she had an alcohol concentration in the
23 range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m), 346.657 or 350.101
24 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the sample was
25 taken within 3 hours after the event to be proved. The fact that the analysis shows

1 that the person had an alcohol concentration of more than 0.0 but not more than 0.1
2 is prima facie evidence that the person had an alcohol concentration in the range
3 specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m), 346.657 or 350.101 (1) (c)
4 or an alcohol concentration above 0.0 under s. 346.63 (7).

5 **SECTION 79.** 885.235 (4) of the statutes is amended to read:

6 885.235 (4) The provisions of this section relating to the admissibility of
7 chemical tests for alcohol concentration or intoxication shall not be construed as
8 limiting the introduction of any other competent evidence bearing on the question
9 of whether or not a person was under the influence of an intoxicant, had a specified
10 alcohol concentration or had an alcohol concentration in the range specified in s.
11 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m), 346.657 or 350.101 (1) (c).

12 **SECTION 80.** 938.344 (2) (b) of the statutes is amended to read:

13 938.344 (2) (b) For a violation committed within 12 months of a one previous
14 violation, a forfeiture of not more than \$100, ~~suspension of the juvenile's operating~~
15 ~~privilege as provided under s. 343.30 (6) (b) 2.~~ or the juvenile's participation in a
16 supervised work program or other community service work under s. 938.34 (5g). In
17 addition, the juvenile's operating privilege may be suspended as provided under s.
18 343.30 (6) (b) 2., except that if the violation of s. 125.07 (4) (b) involved a motor vehicle
19 the juvenile's operating privilege shall be suspended as provided under s. 343.30 (6)
20 (b) 2.

21 **SECTION 81.** 938.344 (2) (c) of the statutes, as affected by 1997 Wisconsin Act
22 84, is amended to read:

23 938.344 (2) (c) For a violation committed within 12 months of 2 or more
24 previous violations, a forfeiture of not more than \$500, ~~suspension of the juvenile's~~
25 ~~operating privilege as provided under s. 343.30 (6) (b) 3.~~ or the juvenile's

1 participation in a supervised work program or other community service work under
2 s. 938.34 (5g). In addition, the juvenile's operating privilege may be suspended as
3 provided under s. 343.30 (6) (b) 3., except that if the violation of s. 125.07 (4) (b)
4 involved a motor vehicle the juvenile's operating privilege shall be suspended as
5 provided under s. 343.30 (6) (b) 3.

6 **SECTION 82.** 938.344 (2b) (b) of the statutes is amended to read:

7 938.344 **(2b)** (b) For a violation committed within 12 months of a one previous
8 violation, a forfeiture of not less than \$300 nor more than \$500, ~~suspension of the~~
9 ~~juvenile's operating privilege as provided under s. 343.30 (6) (b) 2.~~ or the juvenile's
10 participation in a supervised work program or other community service work under
11 s. 938.34 (5g). In addition, the juvenile's operating privilege may be suspended as
12 provided under s. 343.30 (6) (b) 2., except that if the violation involved a motor vehicle
13 the juvenile's operating privilege shall be suspended as provided under s. 343.30 (6)
14 (b) 2.

15 **SECTION 83.** 938.344 (2b) (c) of the statutes, as affected by 1997 Wisconsin Act
16 84, is amended to read:

17 938.344 **(2b)** (c) For a violation committed within 12 months of 2 or more
18 previous violations, a forfeiture of \$500, ~~suspension of the juvenile's operating~~
19 ~~privilege as provided under s. 343.30 (6) (b) 3.~~ or the juvenile's participation in a
20 supervised work program or other community service work under s. 938.34 (5g). In
21 addition, the juvenile's operating privilege may be suspended as provided under s.
22 343.30 (6) (b) 3., except that if the violation involved a motor vehicle the juvenile's
23 operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

24 **SECTION 84.** 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b) and
25 amended to read:

1 940.09 (1d) (b) If the person who committed an offense under sub. (1) (a), (b),
2 (c) or (d) has 2 or more prior convictions, suspensions or revocations, as counted
3 under s. 343.307 (1), the procedure under s. 346.65 (6) ~~may~~ shall be followed
4 ~~regarding the immobilization or~~ if the court orders the seizure and forfeiture of a
5 motor vehicle owned by the person who committed the offense ~~or the equipping of a~~
6 ~~motor vehicle owned by the person with an ignition interlock device.~~

7 **SECTION 85.** 940.09 (1d) (a) of the statutes is created to read:

8 940.09 (1d) (a) If a person who committed an offense under sub. (1) (a), (b), (c)
9 or (d) has one or more convictions, suspensions or revocations, as counted under s.
10 343.307 (1), the procedure under s. 343.301 shall be followed if the court orders the
11 equipping of a motor vehicle owned by the person with an ignition interlock device
12 or the immobilization of the motor vehicle.

13 **SECTION 86.** 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b) and
14 amended to read:

15 940.25 (1d) (b) If the person who committed the offense under sub. (1) (a), (b),
16 (c) or (d) has 2 or more prior convictions, suspensions or revocations, as counted
17 under s. 343.307 (1), the procedure under s. 346.65 (6) ~~may~~ shall be followed
18 ~~regarding the immobilization or~~ if the court orders the seizure and forfeiture of a
19 motor vehicle owned by the person who committed the offense ~~or the equipping of a~~
20 ~~motor vehicle owned by the person with an ignition interlock device.~~

21 **SECTION 87.** 940.25 (1d) (a) of the statutes is created to read:

22 940.25 (1d) (a) If a person who committed an offense under sub. (1) (a), (b), (c)
23 or (d) has one or more prior convictions, suspensions or revocations, as counted under
24 s. 343.307 (1), the procedure under s. 343.301 shall be followed if the court orders the

1 the equipping of a motor vehicle owned by the person with an ignition interlock
2 device or the immobilization of the motor vehicle.

3 **SECTION 88. Nonstatutory provisions.**

4 (1) The departments of corrections, health and family services and
5 transportation shall jointly study and evaluate the desirability of using treatment
6 programs and other alternatives to incarceration as a way to reduce the length of
7 incarceration or the need for incarceration of persons convicted of a 2nd or
8 subsequent violation of operating a motor vehicle while under the influence on an
9 intoxicant, controlled substance or other drug. The departments shall consult with
10 the counties regarding this study and evaluation. No later than the first day of the
11 9th month beginning after the effective date of this subsection, the departments shall
12 jointly submit a report to the legislature in the manner provided under section
13 13.172 (2) of the statutes that contains the conclusions of the departments' study and
14 evaluation and any recommendations concerning implementation of the
15 conclusions.

16 (2) The department of transportation and the department of health and family
17 services shall study jointly and evaluate the effectiveness of using ignition interlock
18 devices and vehicle immobilization as methods of reducing the prevalence of drunk
19 driving and the recidivism of drunk-driving offenders. The departments shall
20 consult with the counties, the law enforcement agencies, the courts and the providers
21 of services to alcohol abusers regarding this study and evaluation. No later than the
22 first day of the 24th month beginning after the effective date of section 343.301 of the
23 statutes, as created in this act, the department shall submit a report to the
24 legislature in the manner provided under section 13.172 (2) of the statutes that

1 contains the conclusions of the departments' study and evaluation and any
2 recommendations concerning implementation of the conclusions.

3 (3) The department of transportation shall submit in proposed form the rules
4 required under section 110.10 of the statutes, as created by this act, to the legislative
5 council staff under section 227.15 (1) of the statutes no later than February 1, 2001,
6 and shall promulgate the rules no later than November 30, 2001, unless action by
7 the legislature under chapter 227 of the statutes prevents the department from
8 meeting this deadline.

9 **SECTION 89. Appropriation changes.**

10 (1) PRETRIAL INTOXICATED DRIVER INTERVENTION GRANTS. In the schedule under
11 section 20.005 (3) of the statutes for the appropriation to the department of
12 transportation under section 20.395 (5) (jr) of the statutes, as affected by the acts of
13 1999, the dollar amount is increased by \$314,700 for fiscal year 2000-01 to provide
14 additional funding for grants under the pretrial intoxicated driver intervention
15 grant program.

16 **SECTION 90. Initial applicability.**

17 (1) MANDATORY OPERATING PRIVILEGE SUSPENSIONS. The treatment of sections
18 125.07 (4) (bs) 2., 3. and 4., (c) 2., 3. and 4. and (e) 2. (intro.), 343.30 (6) (b) (intro.),
19 346.93 (2g), 346.95 (2) and 938.344 (2) (b) and (c) and (2b) (b) and (c) of the statutes
20 first applies to violations committed on the effective date of this subsection, but does
21 not preclude the counting of other violations as prior violations for sentencing a
22 person or for suspending or revoking a person's operating privilege.

23 (2) INTOXICATED DRIVER PROGRAMS. The treatment of sections 110.07 (3), 343.23
24 (2) (b), 343.30 (1p) (b), (1q) (b) 3. and (h), 343.303, 343.305 (3) (a) and (b), (5) (b), (8)
25 (c) 1., (9) (a) 1. and 5. a. and (d) and (10) (b) 3. and 5. and (eg), 343.307 (4), 343.31 (3)

(bm) 3. and 5., 346.63 (2m), 346.65 (2) (b), (c), (d), (e) and (g), (2c), (2e), (2g) (a), (ag), (b) and (c), (2j) (b) and (2w), 346.657, 349.03 (2m) and (4), 349.06 (1m) and 885.235 (1m) and (4) of the statutes and the renumbering of section 343.30 (1p) of the statutes first apply to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other convictions, suspensions or revocations as prior convictions, suspensions or revocations for purposes of administrative action by the department of transportation, sentencing by a court or determining the prohibited alcohol concentration.

(3) IGNITION INTERLOCK AND IMMOBILIZATION. The treatment of sections 343.10 (5) (a) 3. and (b), 343.301, 343.305 (10m), 346.65 (6) (a) 1., 2., 2m. and 3., (b) and (d), 347.413 (1) and (2), 347.417 (1) and (2), 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes and the renumbering of sections 940.09 (1d) and 940.25 (1d) of the statutes first apply to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other convictions, suspensions or revocations as prior convictions, suspensions or revocations for purposes of administrative action by the department of transportation or sentencing by a court.

(4) INTOXICATED DRIVER IMPROVEMENT SURCHARGE. The treatment of sections 20.395 (5) (ek), 20.435 (6) (hx) and 346.655 (1) and (2) (a) and (b) of the statutes first applies to intoxicated driver improvement surcharges imposed for violations committed on the effective date of this subsection.

(5) MUNICIPAL COURT APPEARANCE AND SEIZURE OF MOTOR VEHICLE. The treatment of sections 346.65 (6) (c) and 800.03 (4) of the statutes first applies to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other convictions, suspensions or revocations as prior

1 convictions, suspensions or revocations for purposes of administrative action by the
2 department of transportation or sentencing by a court.

3 **SECTION 91. Effective dates.** This act takes effect on January 1, 2001, except
4 as follows:

5 (1) The treatment of section 110.10 (10) of the statutes and SECTION 88 (3) of
6 this act take effect on October 1, 2000.

7 (2) The treatment of sections 343.10 (5) (a) 3. and (b), 343.301, 343.305 (10m),
8 346.65 (6) (a) 1., 2., 2m. and 3., (b) and (d), 347.413 (1) and (2), 347.417 (1) and (2),
9 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes, the renumbering of sections 940.05
10 (1d) and 940.25 (1d) of the statutes and SECTION 90 (3) of this act take effect on
11 January 1, 2002.

12 (3) The treatment of sections 346.65 (6) (c) and 800.03 (4) of the statutes and
13 SECTION 90 (5) of this act take effect on the first day of the 2nd month beginning after
14 publication.

15 (END)